

House Daily Reader

Friday, February 21, 2003

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State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0206

SENATE ENGROSSED NO. **HB 1013** - 02/19/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to authorize the Department of Agriculture to enter into
2 mutual aid agreements with other fire suppression organizations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 41-20 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Department of Agriculture may enter into mutual aid agreements with other fire
7 suppression organizations and determine what costs these organizations would assume during
8 an initial fire attack.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

633I0240

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1079** - 02/19/2003

Introduced by: Representatives Murschel, Buckingham, Burg, Cradduck, Cutler, Dykstra, Elliott, Hackl, Haverly, Hennies, Kroger, LaRue, McCoy, O'Brien, Olson (Mel), Peterson (Jim), Rhoden, Schafer, and Solum and Senators Abdallah, Dempster, Koetzle, Kooistra, McCracken, Moore, Reedy, Sutton (Dan), and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain eligibility restrictions related to secondary
2 school extracurricular activities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-32-9 be amended to read as follows:

5 13-32-9. Any person adjudicated, convicted, or the subject of a suspended imposition of
6 sentence for possession, use, or distribution of controlled substances or marijuana as defined in
7 chapter 22-42 is ineligible to participate in any extracurricular activity at any secondary school
8 accredited by the Department of Education and Cultural Affairs for one year. However, if the
9 person has been adjudicated, convicted, or the subject of a suspended imposition of sentence for
10 possession or use of marijuana as defined in chapter 22-42, the one-year suspension may be
11 reduced to sixty school days if the person participates in an assessment with a certified chemical
12 dependency counselor or completes an accredited intensive prevention program. If the
13 assessment indicates the need for a higher level of care, the student is required to complete the



1 prescribed program before becoming eligible to participate in extracurricular activities. Upon a
2 subsequent adjudication, conviction, or suspended imposition of sentence for possession, use,
3 or distribution of controlled substances or marijuana by a court of competent jurisdiction, that
4 person is ineligible to participate in any extracurricular activity while that person is attending any
5 school accredited by the Department of Education and Cultural Affairs. Upon such a
6 determination in any juvenile proceeding the Unified Judicial System shall give notice of that
7 determination to the South Dakota High School Activities Association and the chief
8 administrator of the school in which the person is enrolled.

9 As used in this section, the term, extracurricular activity, means any activity sanctioned by
10 the South Dakota High School Activities Association.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

841I0630

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1141 - 02/19/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representative Michels

1 FOR AN ACT ENTITLED, An Act to require computer voice stress analyzer examiners to be
2 licensed.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act and § 23-3-35 mean:

5 (1) "Computer voice stress analyzer" or "CVSA," an instrument that detects, measures,
6 and displays changes in voice frequency, which can be recorded permanently and
7 simultaneously;

8 (2) "CVSA examiner," a person who uses a computer voice stress analyzer to question
9 individuals for the purpose of detecting deception.

10 Section 2. No person may question any individual using a computer voice stress analyzer for
11 the purpose of detecting deception unless the person is a licensed CVSA examiner. A violation
12 of this section is a Class 2 misdemeanor.

13 Section 3. A person may receive a license as a CVSA examiner if the person:

14 (1) Establishes that he or she is a person of good moral character;

15 (2) Has satisfactorily completed a sixty-hour course of study in the use of a computer



1 voice stress analyzer in the detection of deception; and

2 (3) Submits an application to the Office of the Attorney General along with a
3 nonrefundable twenty-five dollar license fee.

4 Section 4. That § 23-3-35 be amended to read as follows:

5 23-3-35. In addition to powers conferred upon the law enforcement officers standards
6 commission elsewhere in this chapter, the commission may:

7 (1) Promulgate rules and regulations for the administration of §§ 23-3-26 to 23-3-47,
8 inclusive, including the authority to require the submission of reports and information
9 by law enforcement agencies within this state;

10 (2) Establish minimum educational and training standards for admission to employment
11 as a law enforcement officer:

12 (a) In permanent positions; and

13 (b) In temporary or probationary status;

14 (3) Certify persons as being qualified under the provisions of §§ 23-3-26 to 23-3-47,
15 inclusive, to be law enforcement officers, and by rule to establish criteria and
16 procedure for the revocation or suspension of the certification of officers who have
17 been convicted of a felony or misdemeanor involving moral turpitude, have
18 intentionally falsified any application or document to achieve certification, or have
19 been discharged from employment for cause, or have engaged in conduct unbecoming
20 of a law enforcement officer;

21 (4) Establish minimum curriculum requirements for preparatory, in-service, and advanced
22 courses and programs for schools operated by or for the state or any political
23 subdivisions of the state for the specific purpose of training recruits or other law
24 enforcement officers;

- 1 (5) Consult and cooperate with counties, municipalities, agencies of this state, other
2 governmental agencies, and with universities, colleges, junior colleges, and other
3 institutions concerning the development of law enforcement training schools and
4 programs or courses of instruction;
- 5 (6) Approve institutions and facilities for school operation by or for the state or any
6 political subdivision of the state for the specific purpose of training law enforcement
7 officers and recruits;
- 8 (7) Make or encourage studies of any aspect of police administration;
- 9 (8) Conduct and stimulate research by public and private agencies which is designed to
10 improve police administration and law enforcement;
- 11 (9) Make recommendations concerning any matter within its purview pursuant to
12 §§ 23-3-26 to 23-3-47, inclusive;
- 13 (10) Make such evaluations as may be necessary to determine if governmental units are
14 complying with the provisions of §§ 23-3-26 to 23-3-47, inclusive;
- 15 (11) Adopt and amend bylaws, consistent with law, for its internal management and
16 control;
- 17 (12) Enter into contracts or do such things as may be necessary and incidental to the
18 administration of its authority pursuant to §§ 23-3-26 to 23-3-47, inclusive;
- 19 (13) License and regulate the activities of private or law enforcement polygraph and
20 computer voice stress analyzer examiners.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

248I0579

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1173** - 02/19/2003

Introduced by: Representatives Peterson (Bill) and Olson (Mel) and Senators Bogue and Moore

1 FOR AN ACT ENTITLED, An Act to create a constitutional revision commission to make a
2 comprehensive study of the Constitution of this state and to consider and recommend
3 legislation for the improvement of the Constitution.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. A commission is hereby created to provide for and enter into a comprehensive
6 study of the South Dakota Constitution to determine ways and means to improve and simplify
7 the Constitution.

8 Section 2. The commission shall consist of thirteen members to be appointed as follows:

9 (1) Three by the president pro tempore of the South Dakota Senate, from former
10 members thereof, no more than two may be from one political party;

11 (2) Three by the speaker of the South Dakota House of Representatives, from former
12 members thereof, no more than two may be from one political party;

13 (3) Three by the Governor of South Dakota, each of whom shall be residents of the state
14 and no more than two may be from one political party;

15 (4) Three by the Governor of South Dakota, each of whom shall have a current or former



1 executive branch employment experience and no more than two may be from one
2 political party;

3 (5) Three by the Chief Justice of the Supreme Court of South Dakota from the members
4 in good standing of the State Bar of South Dakota, one of whom may be a judge of
5 a court of record in this state and no more than two may be from one political party;
6 and

7 (6) Two by the Governor, each of whom shall be a faculty member of a university or
8 college political science department located in the state.

9 Section 3. The commission shall meet during the 2003 and 2004 legislative interims. The
10 commission may hold meetings and hearings at times and places as it may designate. It shall elect
11 a chair, vice-chair, and such other officers from its membership as it deems necessary.

12 Section 4. The Legislative Research Council shall serve as the secretariat of the commission.
13 The Legislative Research Council shall assist in the conduct of such studies as may be directed
14 by the commission, utilizing the aid of consultants, private organizations, and institutions.

15 Section 5. The members of the commission shall be compensated in the same manner as
16 members of an interim legislative committee.

17 Section 6. The commission shall report its findings and recommendations in the form of
18 proposed amendments to the Constitution to the Legislature at its regular sessions in 2004 and
19 2005.

20 Section 7. The commission shall terminate on July 1, 2005.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

904I0295

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1183 - 02/19/2003

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Wick, Cutler, Deadrick (Thomas), Gillespie, Hennies, Madsen, McCaulley, Michels, and Smidt and Senators de Hueck and Knudson

1 FOR AN ACT ENTITLED, An Act to prohibit pyramid promotional schemes.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. For the purposes of this Act, the term, promote, means contrive, prepare,
4 establish, plan, operate, advertise, or otherwise induce or attempt to induce another person to
5 participate in a pyramid promotional scheme.

6 Section 2. For the purposes of this Act, the term, appropriate inventory repurchase program,
7 means a program by which a plan or operation repurchases, upon request and upon commercially
8 reasonable terms, when the salesperson's business relationship with the company ends, current
9 and marketable inventory in the possession of the salesperson that was purchased by the
10 salesperson for resale. Any such plan or operation shall clearly describe the program in its
11 recruiting literature, sales manual, or contract with independent salespersons, including the
12 disclosure of any inventory which is not eligible for repurchase under the program.

13 For the purposes of this section, the term, inventory, includes both goods and services,
14 including company-produced promotional materials, sales aids, and sales kits that the plan or



1 operation requires independent salespersons to purchase.

2 The term, commercially reasonable terms, means the repurchase of current and marketable
3 inventory within twelve months from the date of purchase at not less than ninety percent of the
4 original net cost, less appropriate set-offs and legal claims, if any.

5 The term, current and marketable, excludes inventory that is no longer within its
6 commercially reasonable use or shelf-life period, that was clearly described to salespersons prior
7 to purchase as seasonal, discontinued, or special promotion products not subject to the plan or
8 operation's inventory repurchase program, or that has been used or opened.

9 Section 3. For the purposes of this Act, the term, pyramid promotional scheme, means any
10 plan or operation by which a person gives consideration for the opportunity to receive
11 compensation that is derived primarily from the introduction of other persons into the plan or
12 operation rather than from the sale and consumption of goods, services, or intangible property
13 by a participant or other persons introduced into the plan or operation. The term includes any
14 plan or operation under which the number of persons who may participate is limited either
15 expressly or by the application of conditions affecting the eligibility of a person to receive
16 compensation under the plan or operation, or any plan or operation under which a person, on
17 giving any consideration, obtains any goods, services, or intangible property in addition to the
18 right to receive compensation.

19 Section 4. For the purposes of this Act, the term, compensation, means a payment of any
20 money, thing of value, or financial benefit conferred in return for inducing another person to
21 participate in a pyramid promotional scheme.

22 Section 5. For the purposes of this Act, the term, consideration, means the payment of cash
23 or the purchase of goods, services, or intangible property. The term does not include the
24 purchase of goods or services furnished at cost to be used in making sales and not for resale, or

1 time and effort spent in pursuit of sales or recruiting activities.

2 Section 6. For the purposes of this Act, the term, inventory loading, means that the plan or
3 operation requires or encourages its independent salespersons to purchase inventory in an
4 amount, which exceeds that which the salesperson can expect to resell for ultimate consumption
5 or to consume in a reasonable time period, or both.

6 Section 7. No person may establish, promote, operate, or participate in any pyramid
7 promotional scheme. A limitation as to the number of persons who may participate or the
8 presence of additional conditions affecting eligibility for the opportunity to receive compensation
9 under the plan does not change the identity of the plan as a pyramid promotional scheme. It is
10 not a defense under this section that a person, on giving consideration, obtains goods, services,
11 or intangible property in addition to the right to receive compensation.

12 Any person who establishes or operates a pyramid promotional scheme is guilty of a Class
13 5 felony. Any person who knowingly participates in a pyramid promotional scheme is guilty of
14 a Class 1 misdemeanor.

15 Section 8. Nothing in this Act may be construed to prohibit a plan or operation, or to define
16 a plan or operation as a pyramid promotional scheme, based on the fact that participants in the
17 plan or operation give consideration in return for the right to receive compensation based upon
18 purchases of goods, services, or intangible property by participants for personal use,
19 consumption, or resale so long as the plan or operation does not promote or induce inventory
20 loading and the plan or operation implements an appropriate inventory repurchase program.

21 Section 9. The provisions of this Act do not preclude, preempt, or prohibit the attorney
22 general from proceeding against any plan or scheme or any person involved with such plan or
23 scheme under any other provision of law.

24 Section 10. If it appears to the attorney general that any person has engaged or is about to

engage in any act or practice constituting a violation of any provision of this Act, or any order under this Act, the attorney general may do one or more of the following:

- (1) Issue a cease and desist order, with or without prior hearing, against any person engaged in the prohibited activities, directing such person to cease and desist from further illegal activities;
- (2) Bring an action in the circuit court to enjoin the acts or practices to enforce compliance with this Act, or any order under this Act; or
- (3) Impose by order and collect a civil penalty against any person found in an administrative action to have violated any provision of this Act, or any order issued under this Act, in an amount not to exceed ten thousand dollars per violation per person. The attorney general may bring actions to recover penalties pursuant to this subdivision in circuit court. All civil penalties received shall be deposited in the state general fund.

Any person named in a cease and desist order issued pursuant to this Act shall be notified of his or her right to file, within fifteen days after the receipt of the order, a written notice for a hearing with the attorney general. If the attorney general does not receive a written request for a hearing within the time specified, the cease and desist order shall be permanent and the person named in the order deemed to have waived all rights to a hearing. Every such order shall state its effective date and shall concisely state its intent or purpose and the grounds on which it is based. Any person aggrieved by a final order issued pursuant to this Act may obtain a review of the order in the circuit court pursuant to the provisions of chapter 1-26.

Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or defendant's assets. In addition, upon a proper showing by the attorney general, the court may

1 enter an order of rescission, restitution, or disgorgement directed to any person who has engaged
2 in any act constituting a violation of any provision of this Act, or any order under this Act. The
3 court may not require the attorney general to post a bond. In addition to fines or penalties, the
4 attorney general shall collect costs and attorney fees.

5 Section 11. The burden of showing compliance with the provisions of this Act lies with the
6 plan, scheme, or person involved with such plan or scheme.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

572I0665

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1196** - 02/19/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Peterson (Bill), Michels, and Olson (Mel) and Senators Bogue, Brown, and Moore

1 FOR AN ACT ENTITLED, An Act to provide for the periodic review of the agencies of state
2 government.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For the purposes of this Act, the term, state agency, means any department,
5 division, office, commission, court, board, or any other unit of state government. The term does
6 not include any local unit of government.

7 Section 2. The executive board of the Legislative Research Council shall establish and
8 appoint the members of one or more interim committees each year to review one or more state
9 agencies. The executive board shall establish a schedule whereby each state agency is reviewed
10 by an interim committee once every ten years.

11 Section 3. Any committee appointed pursuant to this Act shall implement the procedures of
12 this Act and may establish its own procedures for the review and evaluation required by this Act.

13 Section 4. Each committee shall hold public hearings and receive testimony from the public
14 and all interested parties. The state agency under review shall bear the burden of establishing that



sufficient public need is present to justify its continued existence. The state agency under review shall provide the committee with the following information:

- (1) The identity of all offices under the direct or advisory control of the state agency;
- (2) All powers, duties, and functions currently performed by the state agency;
- (3) All constitutional, statutory, or other authority under which the powers, duties, and functions of the state agency are carried out;
- (4) Any powers, duties, or functions which the state agency is performing and which is duplicated by another state agency within the state including the manner in which, and the extent to which, the duplication of effort is occurring and any recommendations as to eliminating the duplications;
- (5) Any powers, duties, or functions which are inconsistent with current and projected public needs and which should be terminated or altered; and
- (6) Any other information which the committee feels is necessary and proper to carry out its review and evaluative duties.

Section 5. To determine whether a sufficient public need for continuing the state agency is present, a committee shall take into consideration the following factors concerning the state agency:

- (1) The extent to which any information required to be furnished to the reviewing committee pursuant to section 4 of this Act has been omitted, misstated, or refused, and the extent to which conclusions reasonably drawn from the information are adverse to the legislative intent inherent in the powers, duties, and functions as established in the enabling legislation creating the state agency, or is inconsistent with present or projected public demands or needs;
- (2) The extent to which statutory changes have been recommended which would benefit

1 the public in general as opposed to benefiting the state agency;

2 (3) The extent to which the operation of the state agency has been efficient and
3 responsive to the public needs;

4 (4) The extent to which the state agency has encouraged the persons regulated to report
5 to it concerning the impact of its rules and decisions regarding improved services,
6 economy of service, or availability of service to the public;

7 (5) The extent to which the public has been encouraged to participate in rule and decision
8 making as opposed to participation solely by persons regulated;

9 (6) The extent to which complaints have been expeditiously processed to completion in
10 the public interest; and

11 (7) Any other relevant criteria which the committee deems necessary and proper in
12 reviewing and evaluating the sufficient public need for continuance of the state
13 agency.

14 Section 6. The Department of Legislative Audit shall furnish, upon request of a committee,
15 any relevant information including the reports of audits of the state agency under review.

16 Section 7. Each committee shall submit reports recommending either the continuation,
17 revision, or termination of the state agency under review to the executive board of the
18 Legislative Research Council for distribution to legislators and the Governor before the first
19 legislative day of the ensuing regular legislative session.

20 Section 8. Each committee shall submit its recommendations concerning the state agency and
21 laws that it believes should be repealed or revised to the Legislature in one or more bills.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

517I0627

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1210 -**
02/19/2003

Introduced by: Representatives Bradford, Elliott, Glenski, Hanson, Hundstad, Nesselhuf, and Sigdestad and Senators Moore and Kloucek

1 FOR AN ACT ENTITLED, An Act to allow for a nursing facility to be constructed on an
2 American Indian reservation under certain circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of §§ 34-12-35.3 and 34-12-39.1, a new nursing facility as
7 defined in § 34-12-1.1 may be constructed, operated, and maintained in an area if the facility is
8 to be located on an American Indian reservation and is required to serve a local population
9 previously unserved through lack of nursing facilities within a forty-five-mile radius. No more
10 than one such nursing facility may be located within the same American Indian reservation, and
11 the number of beds in the nursing facility may not exceed fifty. The nursing facility shall meet the
12 specifications of chapter 34-12 for a licensed nursing facility in order to participate in the
13 medicaid program.

14 Section 2. No state funds may be used for the construction of a nursing facility built pursuant



1 to section 1 of this Act.

2 Section 3. This Act is repealed on June 30, 2005.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

544I0532

SENATE APPROPRIATIONS COMMITTEE ENGROSSED NO. **HB 1231** - 02/14/2003

Introduced by: Representative Putnam and Senator Apa

1 FOR AN ACT ENTITLED, An Act to stabilize the annual balance of the South Dakota Public

2 Utilities Commission gross receipts tax fund.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-1A-3 be amended to read as follows:

5 49-1A-3. There is hereby levied on each public utility as defined in subdivision 49-34A-1(12),

6 which is subject to the rate regulation of the commission, and all telecommunications companies

7 as defined in subdivision 49-31-1(26), a tax of not more than .0015 or two hundred fifty dollars,

8 whichever is greater upon the annual intrastate gross receipts derived by the public utility or

9 telecommunications company from its customers within the State of South Dakota during the

10 preceding calendar year. The two hundred fifty dollar minimum gross receipt tax does not apply

11 to telecommunications companies providing local exchange service as defined in subdivision

12 ~~49-31-1(12)~~ 49-31-1(13) or to radio common carriers.

13 Section 2. That § 49-1A-3.1 be repealed.

14 ~~49-1A-3.1. Any funds collected from the tax levied by § 49-1A-3 may not be expended for~~

15 ~~operation of the public utilities commission's transportation division.~~



Section 3. That § 49-1A-4 be amended to read as follows:

49-1A-4. On ~~June~~ April first of each year, each company shall file with the Public Utilities Commission, on forms prescribed by the commission, the amount of its gross receipts derived from the company's customers within the State of South Dakota during the preceding calendar year. Such report shall be sworn to and verified by an officer of the company. On May first of each year the commission shall, by order, establish the rate and assess the tax authorized in § 49-1A-3 which, together with any funds remaining from the current fiscal year and the two hundred fifty dollar minimum gross receipt tax, will fund the commission's budget for the next fiscal year and provide a contingency reserve in an amount not to exceed the prior year's budget.

Section 4. That § 49-1A-5 be amended to read as follows:

49-1A-5. The tax levied by this chapter is due and payable to the state treasurer on ~~June first~~ July fifteenth of each year ~~at the same time as the filing of the report of such gross receipts.~~

Section 5. That § 49-1A-7 be amended to read as follows:

49-1A-7. All amounts deposited in the South Dakota Public Utilities Commission gross receipts tax fund are appropriated to the use of the Public Utilities Commission for its expenses in regulating public utilities as defined in chapter 49-34A and telecommunications companies as defined in subdivision 49-31-1(26). Such expenses may be paid out of the fund on warrants drawn by the state auditor upon duly itemized vouchers. The funds necessary for such expenses are hereby authorized to be expended. The funds may not be expended for any other operations of state government.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0207

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 23** - 02/13/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to grant counties greater authority to prohibit the use of
2 fireworks during periods of extreme fire danger.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-37-19 be amended to read as follows:

5 34-37-19. Any county may, by resolution, regulate or prohibit the use of fireworks, other
6 than fountains, ground spinners, toy novelties, sparklers, and smoke items, outside the
7 boundaries of any municipality in those areas where the fire danger, as determined by use of the
8 rangeland fire index as established by rule promulgated pursuant to chapter 1-26, by the secretary
9 of agriculture ~~or his designee~~, has reached the extreme category in that county ~~for two~~
10 ~~consecutive days~~ during the period from June twentieth ~~through June twenty-seventh~~ to July
11 fifth, inclusive. During such period, the county's action is suspended if the rangeland fire index
12 falls below the very high category and shall again become effective if the rangeland fire index
13 reaches the extreme category.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

770I0290

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 29** - 01/31/2003

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct an addition
2 to the Darold "Dud" King Physical Education Center at the South Dakota School of Mines
3 and Technology and to make an appropriation therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The South Dakota Board of Regents may contract for the construction,
6 completion, finishing, equipping, and maintaining of an addition to the Darold "Dud" King
7 Physical Education Center at the South Dakota School of Mines and Technology in Rapid City,
8 including utilities, furnishings, architectural and engineering services, asbestos abatement, site
9 preparation, and the construction of sidewalks and driveways and landscaping the grounds of
10 that facility at the estimated cost of five hundred ninety thousand three hundred dollars
11 (\$590,300).

12 Section 2. Funding for the project authorized in section 1 of this Act is to be provided from
13 gifts and grants to the South Dakota School of Mines and Technology for this purpose. The
14 Board of Regents may accept any gifts for the purposes authorized by this Act, and all such
15 moneys so contributed are hereby appropriated to the Board of Regents.



1 Section 3. The design and construction of the facilities approved by this Act shall be under
2 the general supervision of the Bureau of Administration as provided in chapter 5-14.

3 Section 4. The commissioner of the Bureau of Administration and the executive director of
4 the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay
5 expenditures authorized by this Act.

6 Section 5. No general fund dollars may be used for maintenance and repair of the facility
7 authorized by this Act, nor may the facility be added to any list of projects receiving funding
8 support from the statewide maintenance and repair fund created in § 5-14-30.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

707I0332

SENATE ENGROSSED NO. **SB 41** - 02/05/2003

Introduced by: The Committee on Commerce at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to provide for the creation of a no solicitation calls list for
2 persons wishing not to receive unsolicited telephone calls, to create a telephone solicitation
3 account, and to establish certain fees and civil penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 49-31-1 be amended to read as follows:

6 49-31-1. Terms used in this chapter mean:

- 7 (1) "Addressable," enabling users to connect and communicate with a specific party easily
8 and securely on a dial-up, addressable basis;
- 9 (2) "Available," ensuring that network services are available if the user requires them,
10 even at times of peak usage; designed to be a nonblocking network, minimizing
11 network contention;
- 12 (3) "Broadband network," the broadband network extends the range of fully switched,
13 addressable, robust transport services over the fiber network which increase in
14 multiples of OC-1 (51.84 Mbps), including OC-3 (155.52 Mbps) and OC-12 (622.08
15 Mbps);



- 1 (4) "Centron and centron-like services," services which provide custom switching features
2 which include distributive dial tone, select number screening, toll restriction and
3 screening, nonattendant busy out, nonattend and call transfer, and select trunk hunting
4 and screening;
- 5 (5) "Commission," the Public Utilities Commission;
- 6 (6) "Common carrier," anyone who offers telecommunications services to the public;
- 7 (7) "Eligible telecommunications carrier," a local exchange carrier designated by the
8 commission pursuant to 47 U.S.C. § 214(e) as of January 1, 1998, as eligible to
9 receive universal service support funding;
- 10 (8) "Feature rich," providing the specific features and functionality required by users'
11 voice, data, video, graphics, imaging, and multimedia applications; functionally
12 beyond mere transport;
- 13 (8A) "Financial institution," any financial institution as defined in 15 U.S.C. § 6827 as of
14 January 1, 2003, including any financial institution affiliate that controls, is controlled
15 by, or is under common control with the financial institution;
- 16 (9) "Incumbent local exchange carrier," a local exchange carrier, including successors and
17 assigns, which was providing local exchange service within a defined service area in
18 this state on or before February 8, 1996;
- 19 (10) "Interexchange telecommunications service," telecommunications service between
20 points in two or more exchanges;
- 21 (11) "LATA," a local access and transport area;
- 22 (12) "Local exchange area," ~~a~~ any geographic area established by a local exchange carrier
23 as filed with or approved by the commission for the administration of local
24 telecommunications service which may consist of one or more central offices or wire

1 centers together with associated facilities used in furnishing telecommunications
2 service in that area;

3 (13) "Local exchange service," the access to and transmission of two-way switched
4 telecommunications service within a local exchange area;

5 (14) "Narrowband network," a fully switched digital network covering the transport range
6 from 0 to 144,000 bits per second (144 Kbps), offering two 64 Kbps information B
7 (Bearer) channels and a 16 Kbps signaling D (Delta) channel;

8 (15) "New products and services," any new product or service introduced after July 1,
9 1988, which is not functionally required to provide local exchange service.
10 Repackaging of any product or service which is fully competitive with any service
11 regulated as emerging competitive or noncompetitive is not considered a new product
12 or service;

13 (16) "Optional service," a any limited or discretionary service offered by a
14 telecommunications company which is not functionally required for the provision of
15 noncompetitive services and which the customer has the option to purchase;

16 (17) "Private," ensuring confidentiality and integrity of network transport of messages
17 without dependency on specialized customer premise security devices;

18 (18) "Rate of return regulation," the procedure used by the commission to approve the
19 charge for a service which gives due consideration to the public need for adequate,
20 efficient, and reasonable service and to the need of the public utility for revenues
21 sufficient to enable it to meet its total current cost of furnishing such service, including
22 taxes and interest, and including adequate provision for depreciation of its utility
23 property used and necessary in rendering service to the public, and to earn a fair and
24 reasonable return upon the value of its property;

(19) "Register," a list of names and telephone numbers of residential telephone subscribers who have properly enrolled to prevent unsolicited telephone calls;

(20) "Residential telephone subscriber," any person residing in the state who has residential telephone service, including cellular service, personal communications service, and wireless local loop service, primarily used for personal use;

(21) "Robust," easily and economically sustaining the rigors of growth and extensive public use;

~~(20)~~(22) "Rural telephone company," a any local exchange company as defined in 47 U.S.C. § 153(37) as of January 1, 1998;

~~(21)~~(23) "Secure," physically precluding unwanted access to network and information;

~~(22)~~(24) "Service area," a geographic area established by the commission for the purpose of determining universal service obligations and support mechanisms. For a rural telephone company, the service area is the company's study area or any other area designated jointly by the commission and the Federal Communications Commission pursuant to 47 U.S.C. § 214(e)(5) as of January 1, 1998;

~~(23)~~(25) "Standard," supporting universal interfaces and networking standards and protocols of generally accepted standards setting bodies;

~~(24)~~(26) "Switched," providing circuit, packet, or channel type switching, each suited to specific application requirements;

~~(25)~~(27) "Switched access," ~~an~~ any exchange access service purchased for the origination and termination of interexchange telecommunications services which includes central office switching and signaling, local loop facility, or local transport;

1 ~~(26)~~(28) "Telecommunications company," any person or municipal corporation owning,
2 operating, reselling, managing, or controlling in whole or in part, any
3 telecommunications line, system, or exchange in this state, directly or
4 indirectly, for public use. For purposes of this definition the term, for public
5 use, means for the use of the public in general or for a specific segment of the
6 public, or which connects to the public in general or for a specific segment of
7 the public, or which connects to the public switched network for access to any
8 telecommunications service;

9 ~~(27)~~(29) "Telecommunications service," the transmission of signs, signals, writings,
10 images, sounds, messages, data, or other information of any nature by wire,
11 radio, lightwaves, electromagnetic means, or other similar means. It does not
12 include the provision of terminal equipment used to originate or terminate such
13 service, broadcast transmissions by radio, television, and satellite stations
14 regulated by the Federal Communications Commission and one-way cable
15 television service;

16 (30) "Telephone solicitation call," any call made to a South Dakota consumer by a
17 telephone solicitor, originating from South Dakota or elsewhere, for the purpose of
18 soliciting a sale of any consumer goods or services to the person called, for the
19 purpose of soliciting an extension of credit for consumer goods or services to the
20 person called, or for the purpose of obtaining information that may be used for the
21 direct solicitation of a sale of consumer goods or services to the person called or an
22 extension of credit for such purposes;

23 (31) "Telephone solicitor," any person or organization who individually or through
24 salespersons, makes or causes to be made a telephone solicitation call. This term does

1 not include any not-for-profit or charitable organization exempt from federal income
2 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 as of
3 January 1, 2003, which makes telephone calls solely to solicit a charitable donation;

4 (32) "Unsolicited telephone call," any telephone solicitation call other than a call made:

5 (a) In response to an express request of the person called;

6 (b) Primarily in connection with an existing debt or contract, payment or
7 performance of which has not been completed at the time of such call;

8 (c) To any person with whom the telephone solicitor, or any business or financial
9 institution on whose behalf the telephone call is being made has an established
10 business relationship or a business relationship that existed within the
11 immediately preceding twelve months; or

12 (d) To any person for the purpose of obtaining information and establishing a date
13 and time for an appointment with the telephone solicitor which will take place
14 at the solicitor's place of business or the consumer's home and the call is not
15 made by an automated telephone dialing system. For purposes of this
16 subsection, an automated telephone dialing system is any automatic terminal
17 equipment that stores or produces numbers to be called randomly or
18 sequentially;

19 ~~(28)~~(33) "Wideband network," the wideband network extends the range of fully
20 switched, digital, addressable information transport from the 144 Kbps to the
21 DS3 rate of 44.736 Mbps, including the DS1 and DS2 rates of 1.544 Mbps and
22 6.312 Mbps, respectively.

23 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 Any telephone solicitor who makes unsolicited telephone calls shall institute procedures that
2 comply with the provisions of this Act for obtaining a list of persons who do not wish to receive
3 unsolicited telephone calls made by or on behalf of the telephone solicitor. No telephone solicitor
4 who makes unsolicited telephone calls may call any number listed on the register. The
5 commission may promulgate rules, pursuant to chapter 1-26, concerning procedures and
6 requirements regarding the implementation of a register, setting of fees for purchase of the
7 register, form of the application, requirements for acquiring a copy of the register, requirements
8 for enrollment on and removal from the register, procedures for maintaining a register, setting
9 of fees to enroll or renew enrollment on the register, procedures for operating the register,
10 standards concerning the use of the register, and application of the civil fines.

11 Section 3. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The commission shall maintain a register of names and telephone numbers of each South
14 Dakota residential telephone subscriber who has elected not to receive unsolicited telephone
15 calls.

16 Section 4. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential
19 telephone subscribers shall obtain a copy of the register from the commission. The register shall
20 be updated not more often than quarterly. Each telephone solicitor shall submit an application
21 to the commission to obtain a copy of the register. Any telephone solicitor desiring to make an
22 unsolicited telephone call shall update his or her copy of the register within thirty days after the
23 receipt of the register.

24 Section 5. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 There is hereby established in the state treasury, the telephone solicitation account. Unless
3 otherwise provided by law, this fund shall consist of all fees and fines imposed pursuant to this
4 Act designated for deposit in the fund. The fund shall be maintained separately and administered
5 by the commission to implement and administer provisions of this Act. Any interest earned on
6 money in the fund shall be deposited in the fund. Expenditures from the fund shall be budgeted
7 through the normal budget process. Unexpended funds and interest shall remain in the fund until
8 appropriated by the Legislature. Any expenditure from the fund shall be disbursed on warrants
9 drawn by the state auditor and shall be supported by vouchers approved by the commission.

10 Section 6. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential
13 telephone subscribers shall pay to the commission an annual fee of not more than five hundred
14 dollars. Fees collected under this section shall be credited to the telephone solicitation account.

15 Section 7. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The commission shall establish or provide for the operation of a register. The register may
18 be operated by the commission or by another entity under contract with the commission. A
19 residential telephone subscriber may enroll on the register in accordance with procedures
20 prescribed by the commission. A subscriber shall pay to the commission a fee, set pursuant to
21 section 2 of this Act, of not more than five dollars to be listed on the register. Fees collected
22 under this section shall be credited to the telephone solicitation account established in section 5
23 of this Act.

24 Section 8. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Notwithstanding the provisions of chapter 49-1A, the commission may use amounts
3 deposited in the gross receipts tax fund to implement this Act. All funds used shall be returned
4 to the gross receipts tax fund within three years of implementation of the register.

5 Section 9. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any telecommunications company that provides local exchange service shall inform its
8 customers of the provisions of this Act by publication of the notice in the consumer pages of its
9 telephone directories.

10 Section 10. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any person who violates this Act or any rules promulgated pursuant to this Act is subject
13 to a civil penalty to be imposed by the commission, after notice and opportunity for hearing. The
14 commission may impose a civil fine of not more than five thousand dollars for each offense. In
15 determining the amount of the penalty upon finding a violation, or the amount of a compromise
16 settlement, the commission shall consider the appropriateness of the penalty to the size of the
17 business of the person charged, prior offenses and compliance history, and the good faith of the
18 person charged in attempting to achieve compliance. Any telephone solicitation made to a person
19 whose name first appears on the register is not a violation of this Act if the solicitation is made
20 within thirty days of the receipt of the register. Any penalty collected pursuant to this section
21 shall be credited to the telephone solicitation account established pursuant to section 5 of this
22 Act.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

545I0155

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 59** - 01/27/2003

Introduced by: Senator Napoli and Representative Haverly

1 FOR AN ACT ENTITLED, An Act to transfer from the county register of deeds to the county
2 treasurer certain administrative duties regarding titles for vehicles and boats.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-3-28 be amended to read as follows:

5 32-3-28. The secretary shall issue the certificate of title in triplicate. One copy shall be
6 retained by the secretary and the other copy shall be transmitted either by mail or electronically
7 by computer, postage prepaid, on that day to the county ~~register of deeds~~ treasurer of the county
8 in which the motor vehicle, trailer, or semitrailer is to be kept. The secretary shall sign the
9 original certificate of title and deliver the certificate to the owner named on it or as otherwise
10 directed by the owner. If there are one or more liens on the motor vehicle, trailer, or semitrailer,
11 the secretary shall properly note the same in the order of their priority on the certificate of title
12 which shall be delivered or mailed to the owner named on it or as otherwise directed by the
13 owner. Secured parties, if any, shall be mailed or delivered conspicuous notification of their
14 security interest as filed and noted on the certificate of title.

15 Section 2. That § 32-3-33 be amended to read as follows:



1 32-3-33. If, after a certificate of title has been issued for a motor vehicle, trailer, or
2 semitrailer, the county in which it is kept for use shall be changed, then upon application of the
3 owner, so stating, the secretary may authorize the transfer of the duplicate certificate of title from
4 the office of the ~~county register of deeds~~ treasurer of the county in which it was formerly kept
5 to the county where the motor vehicle, trailer, or semitrailer is presently kept. Thereafter the
6 county ~~register of deeds~~ treasurer of the county in which such duplicate title certificate is
7 transferred shall perform the duties imposed by this chapter. However, the keeping of a duplicate
8 certificate of title in the office of the ~~county register of deeds~~ treasurer of a county in which the
9 motor vehicle, trailer, or semitrailer is not actually kept may not affect the validity of the title or
10 of any contract, lien, or encumbrance upon the motor vehicle, trailer, or semitrailer described in
11 the certificate.

12 Section 3. That § 32-3-34 be amended to read as follows:

13 32-3-34. The ~~register of deeds and the~~ county treasurer shall assist in the administration of
14 this chapter and perform such duties in connection therewith as may be required by the secretary.

15 Section 4. That § 32-3-38 be amended to read as follows:

16 32-3-38. The holder of a mortgage, trust receipt, conditional sales contract, mechanic's lien,
17 or similar instrument, upon presentation of the certificate of title to the office of the titled owner's
18 county ~~register of deeds~~ treasurer, together with the fee prescribed by this chapter, may have a
19 notation of the lien made on the certificate of title. The ~~county register of deeds~~ treasurer shall
20 enter the notation and the date thereof over the signature of the officer or deputy and the seal
21 of office. The ~~register of deeds~~ treasurer on that day shall notify the department, ~~which~~. The
22 department shall note the lien on the state's computer system, if the county ~~register of deeds~~
23 treasurer has not done so.

24 Section 5. That § 32-3-41 be amended to read as follows:

1 32-3-41. A security interest, mechanic's lien, or similar instrument other than a financing
2 statement covering a motor vehicle, trailer, or semitrailer if notation of same has been made by
3 the seller, buyer, owner, holder of the instrument, or an agent of the secretary on the
4 manufacturer's statement of origin or the manufacturer's certificate of origin, or in the case of the
5 certificate of title, if a notation of same has been made by the secretary, an agent of the secretary,
6 ~~the county register of deeds~~, or a county treasurer on the face thereof or if notation of same has
7 been made by the seller, buyer, owner, holder of the instrument, or agent of the secretary on the
8 reverse thereof, shall be valid against the creditors of the debtor, whether armed with process
9 or not, and subsequent purchasers and other lien holders or claimants, but otherwise is not valid
10 against them.

11 Section 6. That § 32-3-43 be amended to read as follows:

12 32-3-43. The county ~~register of deeds~~ treasurer, upon receipt of a lien or title instrument duly
13 executed in the manner prescribed by law governing such instruments, together with the fee
14 prescribed for notation thereof which is nonrefundable, shall notify the holder of the certificate
15 of title to deliver to the ~~county register of deeds~~ treasurer, within fifteen days from the date of
16 notice, the certificate of title to permit notation of a lien, and, if necessary, the issuance of a new
17 certificate of title provided in § 32-3-36. After the notation of lien the ~~county register of deeds~~
18 treasurer shall deliver the certificate of title to the owner or as otherwise directed by the owner.
19 The secured party shall be mailed or delivered notification of ~~his~~ the party's security interest as
20 filed and noted on the certificate of title. The holder of a certificate of title who refuses to deliver
21 a certificate of title to the ~~county register of deeds~~ treasurer for the purpose of showing the lien
22 on the certificate of title within fifteen days from the date when notified to do so by the ~~county~~
23 ~~register of deeds~~ treasurer, is liable for damages to the lien holder for the amount of damages the
24 lien holder suffered by reason of the holder of the certificate of title refusing to permit the

1 showing of the lien on the certificate of title.

2 Section 7. That § 32-3-44 be amended to read as follows:

3 32-3-44. If a lien is discharged, the lien holder shall execute a release within twenty days after
4 final payment is received, the release shall contain the certificate of title number and the date of
5 the notation. The lien holder shall deliver the release (and certificate of title if held by him) to any
6 county ~~register of deeds who~~ treasurer. The treasurer shall note the cancellation of the lien on
7 the face of the certificate of title and on the same day shall notify the secretary, ~~who~~. The
8 secretary shall cancel the lien on the state's computer system, if the county ~~register of deeds~~
9 treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29, application
10 for duplicate title may be forwarded along with the release to the department, ~~which~~. The
11 department shall cancel the lien. For failure to comply with these provisions relating to releasing
12 a lien, the lien holder shall be liable to the owner for all damages sustained by ~~him~~ the owner. The
13 county ~~register of deeds~~ treasurer shall mail or deliver the certificate of title to the owner, or as
14 otherwise directed by the owner. Upon the satisfaction of a security interest in a motor vehicle,
15 trailer or semitrailer for which the certificate of title is in the possession of the owner, the secured
16 party shall within twenty days after final payment is received, execute a release of security
17 interest on the form prescribed by the department and mail or deliver such release to the owner
18 or as otherwise directed by the owner.

19 Section 8. That § 32-3-45 be amended to read as follows:

20 32-3-45. The county ~~registers of deeds~~ treasurer shall charge a fee of five dollars for each
21 notation of any lien on a certificate of title. No fee may be charged for the cancellation of such
22 lien. The lien fee shall be accounted for in the same manner as other fees of their office.

23 Section 9. That § 32-3-46 be amended to read as follows:

24 32-3-46. Liens on motor vehicles, trailers, or semitrailers as defined in § 32-3-35 may be

1 enforced or foreclosed in accordance with the procedural law applicable to each kind of lien. It
2 ~~shall~~ is not ~~be~~ necessary that a lien be filed for record as a condition precedent to foreclosure if
3 ~~such~~ the lien has been duly noted on the certificate of the title of the motor vehicle, trailer, or
4 semitrailer; ~~and any.~~ Any notice of sale, sale, or report of sale required by the applicable
5 procedural law may be published, held, or filed in the county specified by ~~such~~ the law, or if not
6 there specified, then in the county where a copy of the certificate of title is kept by the ~~register~~
7 ~~of deeds~~ treasurer as provided by § 32-3-28. Further, if the lien holder verifies in writing that the
8 owner of the collateral did not surrender the certificate of title, ~~such~~ the affidavit shall be
9 accepted as prima facie evidence of the lien; and may be used in lieu of the certificate of title, and
10 the certificate of title need not be surrendered at the time of foreclosure.

11 Section 10. That § 32-3-49 be amended to read as follows:

12 32-3-49. Upon cancellation of any certificate of title, the secretary shall notify the county
13 ~~register of deeds~~ treasurer of the county where the duplicate certificate of title of the vehicle,
14 trailer, or semitrailer is involved was kept. The ~~county register of deeds~~ treasurer shall thereupon
15 enter the cancellation upon ~~his~~ the treasurer's records. The secretary shall also notify the person
16 to whom the certificate of title was issued as well as any lien holder appearing thereon of the
17 cancellation and shall demand the surrender of the certificate of title ~~but the.~~ However, the
18 cancellation may not affect the validity of any lien noted thereon. The holder of the certificate
19 shall return same to the secretary forthwith.

20 Section 11. That § 32-3A-45 be amended to read as follows:

21 32-3A-45. The county ~~register of deeds~~ treasurer, upon receipt of a lien or title instrument
22 duly executed in the manner prescribed by law governing such instruments, together with the fee
23 prescribed for notation thereof which is nonrefundable, shall notify the holder of the certificate
24 of title to deliver to the ~~county register of deeds~~ treasurer, within fifteen days from the date of

1 notice, the certificate of title to permit notation of the lien, and if necessary, the issuance of a new
2 certificate of title. After the notation of the lien, the ~~county register of deeds~~ treasurer shall
3 deliver the certificate of title to the owner or as otherwise directed by the owner. The secured
4 party shall be mailed or delivered notification of ~~his~~ the party's security interest as filed and noted
5 on the certificate of title. ~~The~~ Any holder of the certificate of title who refuses to deliver the
6 certificate of title to the ~~county register of deeds~~ treasurer for purposes of showing the lien on
7 the certificate of title within fifteen days from the date notified to do so by the ~~county register~~
8 ~~of deeds~~ treasurer is liable for damages to the lien holder for the amount of damage the lien
9 holder suffered by reason of the holder of the certificate of title refusing to permit the showing
10 of the lien on the certificate of title.

11 Section 12. That § 32-3A-46 be amended to read as follows:

12 32-3A-46. If a lien is discharged, the lien holder shall execute a release, ~~which shall contain~~
13 ~~the certificate of title number and the date of the notation,~~ within twenty days after the final
14 payment is received. The release shall contain the certificate of title number and the date of the
15 notation. The lien holder shall deliver the release and certificate of title if held by ~~him~~ the lien
16 holder to any county ~~register of deeds who~~ treasurer. The treasurer shall note the cancellation
17 of the lien on the face of the certificate of title, and on the same day shall notify the secretary;
18 ~~who.~~ The secretary shall cancel the lien on the state's computer system, if the ~~county register of~~
19 ~~deeds~~ treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29,
20 application for duplicate title may be forwarded along with the release to the department;
21 ~~which.~~ The department shall cancel the lien. Upon the satisfaction of a security interest on a large
22 boat for which the certificate of title is in the possession of the owner, the secured party shall
23 within twenty days after final payment is received, execute a release of security interest on the
24 form prescribed by the department and mail or deliver ~~such~~ the release to the owner or as

otherwise directed by the owner.

Section 13. That § 32-3A-48 be amended to read as follows:

32-3A-48. The ~~register of deeds and the~~ county treasurer shall assist in the administration of this chapter and perform such duties in connection therewith as may be required by the secretary.

Section 14. That § 32-4-8 be amended to read as follows:

32-4-8. No person may have in ~~his~~ possession any blank or partially executed "certificate of title and registration," "certificate of registration," "certificate of title," or other similarly styled form or document, whether genuine or counterfeit, of this or any other state or country, which is of a type that, when genuine and properly issued, evidences ownership of a vehicle under the laws of this or another state or country, and surrender of which is required in order to sell, transfer, register, or title a motor vehicle or trailer in this state.

Except, a person may possess such forms or documents if ~~he~~ the person is:

- (1) An employee of a manufacturer or printer of the form or document and possesses the form or document in the normal course of the business of design or manufacture in connection with bid invitation, bid, or contract with a government agency related to supplying the forms for governmental use;
- (2) An employee of a shipper or agency under whose direction the forms are being shipped or delivered to a state or local agency charged with receiving, distributing, or issuing the forms or documents, when they are in a container sealed under governmental direction;
- (3) An employee of a state agency who possesses the forms or documents in the course of carrying out ~~his~~ the employee's official duties;
- (4) A county treasurer or ~~register of deeds or their employees~~ any employee of the

1 treasurer whose official work duties require the handling of the forms or documents
2 and ~~he~~ the treasurer or employee possesses them within the confines of the county's
3 official storage space or immediately incidental to placing them in such places;

4 (5) In possession of the form or document and it is prominently and indelibly marked on
5 its face, either "~~specimen, "void," or "sample."~~ specimen, void, or sample.

6 A violation of this section is a Class 6 felony.

7 Section 15. That § 32-3A-30 be amended to read as follows:

8 32-3A-30. A security interest created in this state in a large boat, and as defined by
9 §§ 42-8-71 to 42-8-74, inclusive, and §§ 42-8-76 to 42-8-84, inclusive, on and after March 1,
10 1992, is not perfected until the security interest is noted on the certificate of title. On or after
11 July 1, 1993, a security interest created in this state on a large boat, as defined in § 42-8-2,
12 exclusive of a motorboat is not perfected until the security interest is noted on the certificate of
13 title. On or after July 1, 1994, a security interest created in this state on a large boat, as defined
14 in § 42-8-2, is not perfected until the security interest is noted on the manufacturer's statement
15 of origin, on the manufacturer's certificate of origin, or on the certificate of title. To perfect the
16 security interest, a copy of the security agreement shall be presented along with the
17 manufacturer's statement of origin, the manufacturer's certificate of origin, or the original title.
18 The secretary of revenue, an agent of the secretary, the county treasurer, the register of deeds,
19 or the seller, buyer, owner, or holder of the manufacturer's statement of origin, the
20 manufacturer's certificate of origin, or the certificate of title shall note the security interest at any
21 place on the manufacturer's statement of origin, the manufacturer's certificate of origin, or the
22 certificate of title. If so noted, the lien is perfected against the creditors of the debtor, is valid
23 against the creditors of the debtor, whether armed with process or not, and subsequent
24 purchasers and other lien holders or claimants, but otherwise is not valid against them. The fee

1 for noting the lien is five dollars. The fees shall be credited to the county general fund. The
2 certificate of title shall be presented to the county ~~register of deeds~~ treasurer if a lien is to be
3 noted on an existing certificate of title.

4 The owner shall present the certificate of title to the county ~~register of deeds~~ treasurer when
5 a release statement is filed.

6 Section 16. That § 32-3A-32 be amended to read as follows:

7 32-3A-32. The owner of a large boat not yet subject to the titling requirements of
8 §§ 32-3A-20 to 32-3A-23, inclusive, and §§ 32-3A-24 to 32-3A-32, inclusive, may apply to the
9 county treasurer of the owner's residence for a certificate of title for the large boat. If there are
10 one or more liens on the large boat, the department shall note the liens on the certificate of title
11 in order of their priority and shall deliver or mail the certificate of title to the owner or as
12 otherwise directed by the owners.

13 Upon issuance of the certificate of title for the large boat, the large boat shall thereafter be
14 subject to the requirements of §§ 32-3A-20 to 32-3A-23, inclusive, and §§ 32-3A-24 to
15 32-3A-32, inclusive, as though the boat was required to be titled.

16 The owner shall present the certificate of title to the county ~~register of deeds~~ treasurer when
17 a release statement is filed and a new or endorsed certificate shall be issued to the owner.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0554

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 80** - 01/31/2003

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the Richard Hagen-Minerva Harvey memorial
2 scholarship program and to make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Pursuant to the donation and intent of Minerva I. Harvey, deceased August 25,
5 1999, as expressed by Article 2 of her Last Will and Testament and presented for probate in the
6 State of New Jersey, Gloucester County Surrogate's Court, there is hereby established within the
7 Department of Education and Cultural Affairs the Richard Hagen-Minerva Harvey memorial
8 scholarship program.

9 Section 2. The Richard Hagen-Minerva Harvey memorial scholarship program shall be
10 administered by a five-member board named the Richard Hagen-Minerva Harvey Memorial
11 Scholarship Board which is hereby established. The members shall be appointed by the Governor
12 for a term of five years, except that the initial appointments shall be for periods of one, two,
13 three, four, and five years. The Governor shall appoint one member as the temporary chair of the
14 board. The board shall elect officers at its first meeting. The board shall meet no more than four
15 times a year, not including telephonic conferences, as may be necessary to complete its



responsibilities as prescribed by this Act. No more than three members of the board may be of the same political party. At least two members of the board shall be enrolled members of a tribe located in South Dakota. A majority of the board shall be present either personally or telephonically to constitute a quorum.

Section 3. In order to be eligible for a Richard Hagen-Minerva Harvey memorial scholarship award, a student shall:

- (1) Have graduated from a South Dakota accredited high school;
- (2) Have met high school graduation requirements established by rules promulgated pursuant to chapter 1-26 by the Department of Education and Cultural Affairs;
- (3) Attend a public or nonpublic accredited university, college, or technical institute located in South Dakota;
- (4) Apply for a Richard Hagen-Minerva Harvey memorial scholarship within one year after graduating from high school or within one year of the student's release from active duty with an active component of the armed forces if the release is within five years of the student's graduation from high school; and
- (5) Be an enrolled member of a tribe whose reservation is located in whole or part in South Dakota.

Section 4. Scholarship award payments shall be made to the institution at the beginning of the fall or spring semester on behalf of the eligible student who has received a Richard Hagen-Minerva Harvey memorial scholarship. The amount of the award is as follows:

- (1) Not less than one thousand dollars for the first year of attendance;
- (2) Not less than one thousand dollars for the second year of attendance;
- (3) Not less than one thousand five hundred dollars for the third year of attendance; and
- (4) Not less than two thousand five hundred dollars for the fourth year of attendance.

Section 5. The board may award no more than seven scholarships per year.

Section 6. In order to maintain eligibility, a student who has been awarded a Richard Hagen-Minerva Harvey memorial scholarship shall:

- (1) Maintain a cumulative 2.5 grade point average on a 4.0 grade point scale;
- (2) Be continuously enrolled for the fall and spring semesters in a public or nonpublic accredited university, college, or technical institution; and
- (3) Complete the equivalent of at least fourteen credit hours of instruction per semester.

Section 7. If factors beyond the control of a student who has been awarded a Richard Hagen-Minerva Harvey memorial scholarship prevent the student from meeting the requirements in section 6 of this Act, the board may temporarily waive the requirements of section 6 of this Act as eligibility criteria.

Section 8. The Department of Education and Cultural Affairs shall provide necessary support services to the board created by this Act.

Section 9. There is hereby continuously appropriated to the Department of Education and Cultural Affairs any other fund expenditure authority necessary for the department to accept and expend money the department may receive from any source for the purpose for providing a Richard Hagen-Minerva Harvey memorial scholarship.

Section 10. The secretary of the Department of Education and Cultural Affairs shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 11. The Department of Education and Cultural Affairs may promulgate rules pursuant to this Act and chapter 1-26 to accept applications for a Richard Hagen-Minerva Harvey memorial scholarship, establish criteria to award a Richard Hagen-Minerva Harvey memorial scholarship, and to maintain eligibility for a Richard Hagen-Minerva Harvey memorial scholarship.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

444I0525

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 145** - 02/06/2003

Introduced by: Senators Sutton (Duane), Dennert, Duxbury, Moore, Sutton (Dan), and Symens and Representatives Burg, Elliott, Frost, Hundstad, and Novstrup

1 FOR AN ACT ENTITLED, An Act to revise certain Central Plains Water Development District
2 boundaries.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 46A-3A-2 be amended to read as follows:

5 46A-3A-2. The Central Plains Water Development District is hereby established. The Central
6 Plains Water Development District includes all of ~~Hand County; Franklin, Union, Banner, Spring~~
7 ~~Lake, Illinois, Eden, Valley, Douglas, Washington, Loomis, Lincoln, William Hamilton,~~
8 ~~Holabird, Highmore, and Bramhall townships in Hyde County; Peoria, Mentor, Bryon, Logan,~~
9 ~~Blunt, Bretton, Harrold, Buckeye, Dry Run, and Canning townships in Hughes County; Lake and~~
10 ~~Elk townships in Sully County; Enterprise, Freedom, Emerson, Fairview, Saratoga, Pulaski,~~
11 ~~Myron, Devoe, Wesley, Bryant, Tamworth, Lafoon, Centerville, Pioneer, Orient, Arcade,~~
12 ~~Hillsdale, and Zell townships in Faulk County; Exline, Redfield, Lodi, Frankfort, Lake, Tulare,~~
13 ~~Crandon, Lincoln, Buffalo, Garfield, Belmont, and Cornwall townships in Spink County; Nance,~~
14 ~~Bonilla, Altoona, Pleasant View, Whiteside, Allen, Broadland, Fairfield, Iowa, Wessington,~~
15 ~~Wolsey, Hartland, Theresa, Valley, Sand Creek, Vernon, Dearborn, Clyde, Custer, Burr Oak,~~



- 1 ~~Kellogg, Carlyle, Grant, and Clifton townships in Beadle County; Faulk, Hand, Hughes, Hyde,~~
- 2 ~~Potter, and Sully counties~~ and all municipalities that lie wholly or partially within the included
- 3 area or that are contiguous to the included area.